
This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 108 SSM 18
The People &c.,
Respondent,
v.
Andrew Smart,
Appellant.

Submitted by David P. Greenberg, for appellant.
Submitted by Jill Oziemblewski, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.
The record supports the Appellate Division's finding that the
challenged lineup was not unduly suggestive. Accordingly,
defendant's claim is beyond our further review (People v McBride,
14 NY3d 440, 448 [2010] [citation omitted]).

* * * * *

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Wilson concur. Judge Feinman took no part.

Decided June 29, 2017